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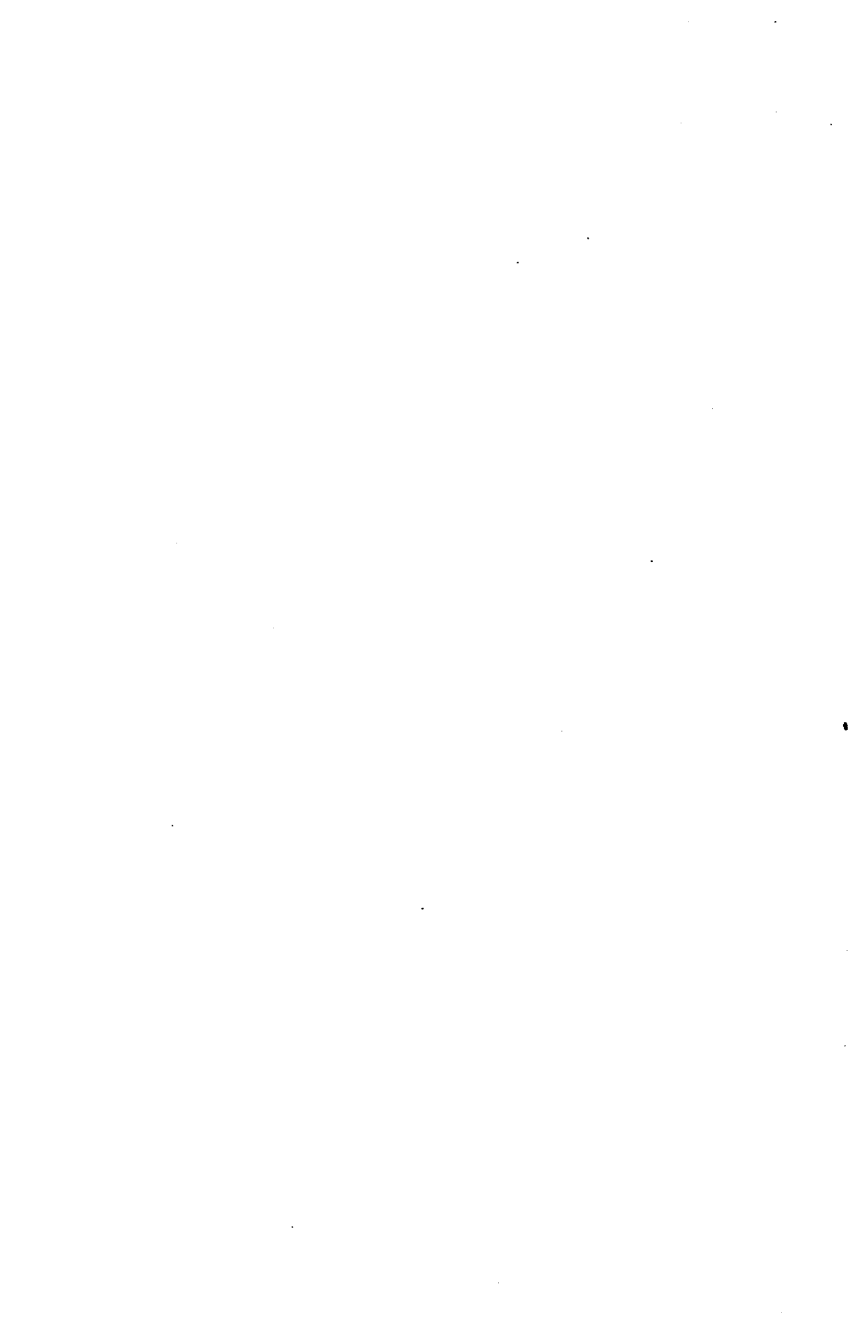
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**THE LAW OF THE LORD'S DAY
IN THE CELTIC CHURCH**



THE LAW OF THE LORD'S DAY IN THE CELTIC CHURCH

BY

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PREFACE

THE *Cáin Domnaig* (Law of the Lord's day), in its present literary form, cannot be later than the beginning of the ninth century, but its substance and purpose may be as old as the time of St. Patrick and St. Columba, for both strictly observed the Lord's day. It is a highly technical law tract, which must be distinguished from the "Epistle of Jesus." The latter generally accompanies the *Cáin*, and is clearly of Roman origin. What strikes one forcibly, however, in connection with the *Cáin*, is the thoroughly Irish character of most of its prohibitions and permissions, and of all its legal sanctions. It is difficult, one might say impossible, to conceive it as a translation of a document emanating from Rome. The question then

v

arises : whether the ideas expressed in the *Cáin* had their origin independently in Ireland, before they became general elsewhere ; or does the *Cáin* merely give expression, in terms of Irish circumstances, to ideas which were already current in other parts of Christendom ? Available evidence, which is given in this monograph, seems to point to an Irish origin. In any case, its great antiquity, its distinctive Irish character, and the glimpse it gives us of social habits, modes of living, and complex procedure in civil and ecclesiastical courts, make a valuable addition to our knowledge, which makes a dark and remote period more living to the present. Of almost equal value is the clear proof the *Cáin* affords that the prohibition of baking, washing, shaving, fetching of fuel and other forms of labour, on the Lord's day, which was recognised throughout all Scotland till within recent times, had its origin not in the austerity of the Puritans, as Roman Catholic and Protestant writers reproachfully assert, but in the zeal of the founders and builders

of the Christian Church in Ireland and Scotland. It is somewhat ironical that the Roman Catholic Church, which claims exclusive right to the ecclesiastical heritage of the framers of the *Cáin*, should to-day be foremost in repudiating in practice its high ideals.

It is a pleasant duty to acknowledge help given by the Rev. John Shaw, M.A., Leith, and especially by Professor W. J. Watson, LL.D., of the Celtic Chair, Edinburgh University, who revised the translation and made helpful suggestions.

D. MACLEAN.

CONTENTS

	PAGE
I. INTRODUCTION	I
<i>Cáin</i> in MS. XL., Edinburgh—In Irish Manuscripts — Published Transcripts — Archaic and Obscure Words — Legal Formulas.	
II. TRANSLATION	3
Prohibitions — Permissions — Fines and Processes—Divine Judgments.	
III. AUTHENTICITY AND DATE	16
Its Genuineness accepted — Internal Evidence—Early References to it—"Epistle of Jesus"—Conall Mac Coelmaine—Blending of Native Tradition with Christian Learning—Gradual Growth of the Use of the Vernacular for Sacred Use—The Promulgation of the <i>Cáin</i> an Abnormal Event —The Laws of Ine of Wessex an Analogy—The <i>Cáin</i> a Received Tradition—Colman of Lindisfarne on the Heritage from "our Forefathers"—The <i>Cáin</i> our Oldest Ecclesiastical and Civil Law on the Lord's Day—Its Value to the Student of the Early Social and Religious Life of Scotland.	

	PAGE
IV. ITS NATIVE CHARACTER	24
<i>Cáin</i> compared with Earlier Canon and State Laws on the Lord's Day—The Lord's Day in Apostolic Times—Tertullian's View—Athanasius' "Memorial of the Second Creation"—Augustine's View—The Celtic Church and the Eastern Church—Chrysostom's View—The Councils of Illiberis and Macon on the Lord's Day—Constantine's Famous Decree—Gregory's <i>Decrees</i>—Pilgrimages of Early Celts—<i>Peregrini</i>—Carolingian Revival due to the <i>Peregrini</i>—The Influence of Alcuin with Charlemagne—His Sabbatic Law—Aldhelm and Ine of Wessex—Egred's Letter to Wulfsize—Influence of Irish Sabbatic Views on the "Wulfstan Homilies"—Sabbatic Laws among Franks and Saxons traceable to Irish Influence.	
V. THE LAW APPLIED	37
Saints of the Celtic Church Strict Sabbatarians—The Ethical and Moral Purpose of the Law—The Christian Character of the great Laws of Ireland—St. Aed punishes Women for desecrating the Lord's Day—St. Colman prohibits cutting Wood on the Lord's Day—St. Cellach refuses to speak to a Sabbath Desecrator—The Sons of Ua Corra and Penalties in the World Beyond—The Sage who cleansed the Path—St. Patrick a Sabbatarian—St. Columba and the Lord's Day—Sabbath and the Lord's Day.	

VI. THE LAW AND SOCIAL LIFE . . .

PAGE

44

A View of Rural Life—Law of Property—
Ecclesiastical and Civil Courts—Character
built on Religious Foundations—Readiness
to obey the Law—The Influence of Early
Christianity in Alba — No Collective
Ownership of Stock—St. Columba and the
Poor Woman with the One Cow—The Free-
booting Princes of Dalriada—The Meaning
of *Scottus* or Scot—Holding Property for
Political Ends—Independence of Dalriada
—Mistaken View of Decision at Druim
Ceata—Ecclesiastical but not Political
Polity transplanted to Dalriada — St.
Columba does not sow on Fallow Ground
—Queen Margaret and the Desecration of
the Lord's Day in Scotland—An Untenable
View—Lapse of Clergy and Laity from the
Ideals of the *Cáin*.



THE LAW OF THE LORD'S DAY IN THE CELTIC CHURCH

I

INTRODUCTION

ONE of the oldest and most valuable of the Gaelic manuscripts in the National Library of Scotland, Edinburgh, is MS. XL.¹ The last tract in this MS.² (pp. 72–75) is that known as the *Cáin Domnaig*, or the Law of the Lord's day, and it is clearly a transcript, with local linguistic variations, from an older source. The *Cáin* is found in whole, or in part, in various Irish manuscripts,³

¹ Mackinnon, *Catalogue of Gaelic Manuscripts*, p. 91.

² *Ibid.* pp. 95, 96. The tract ends thus: "It is the Servant of Ciaran Macintyre who wrote this."

³ In the *Leabhar Breac*, p. 202b; British Museum Harleian MS. 5280, fo. 38a; 23N10 Royal Irish Academy MS., p. 108; *Yellow Book of Lecan*, pp. 405, 215; *Liber Flavii Fergusiorum* (R.I.A.), i. and ii., fos. 45 and 41; MS. 4783, fo. 561. (Brit. Mus.).

2 THE LAW OF THE LORD'S DAY

accompanied by the "Epistle of Jesus on the Observance of the Lord's Day"¹ and three examples² of divine punishment for the transgression of this Law. In our MS. XL., only the *Cáin* proper is given. Transcripts of the "Epistle," and of the "Examples," as well as of the *Cáin*, have been published.³ The published transcript of the *Cáin* is almost identical in substance with that in MS. XL., differing only in certain orthographical features, which, although they are of interest and value to the grammarian and philologist, need not be discussed here. This important tract has numerous archaic and obscure words, and compressed legal formulas, with many technical terms peculiar to the ancient laws of Ireland, and is difficult to translate. No translation has hitherto appeared.⁴ The following is a translation of the collated texts.

¹ *Eriu*, pp. 193-211.

² *Zeitschrift für Celtische Philologie*, vol. iii. p. 228.

³ *Anecdota from Irish Manuscripts*, vol. iii.

⁴ A translation of a few of the prohibitions is given in O'Curry's *Manners and Customs of the Ancient Irish*, vol. ii. pp. 32, 33; Professor Mackinnon in his *Catalogue*, pp. 95, 96, gives also a few of the prohibitions and sanctions.

II

TRANSLATION

[PROHIBITIONS]

THE sanctity of the Lord's day¹ is from vespers on Saturday till after matins on Monday.² It shall be without riding,

¹ *Domnaig* is gen. sing. of *Domnach*, "the Lord's day," from Latin *dominica*. The modern word is *Di-domnuich*, from (*dies*)-*dominica*, Lord's day. The early Christians entitled the first day of the week *Κυριακή*, the Lord's day. The Latin races (and the Gaels) adopted derivatives of this *dies Dominica*, while the northern or Teutonic nations adopted their week from the heathen designation (England, *Sunday*; Germany, *Sonntag*; Sweden, *Söndag*).—*Encyclopædia Britannica* (eleventh ed.), vol. xxvi. p. 94a; Hastings, *Encyclopædia of Religion and Ethics*, vol. xii. p. 104b.

² The *Leabhar Breac* reads: "o Espartu int Shathurnd co hergi gréne Dia luain"; i.e. from vespers on Saturday till sunrise on Monday. In the *Decretals* of Gregory all Sundays were to be observed from vespers to vespers ("a vespera ad vesperam") (*Ency. Brit.*, vol. xxvi. p. 95a). The canonical hours of the Celtic Church, according to Codex 4. 3. 17, Trinity College, Dublin, col. 675, and the reasons for these, are as follows: Terce (*teirt*), because then Christ was given up by Pontius Pilate. Sext (*Medon lai*; lit. "middle of the day"), then Adam sinned, and Christ was placed on the cross. None (*Noin*), He yielded up the Ghost. Vespers and Sext (*Espartu ocus medon lai*), times

without beginning a journey, without selling, without covenant, without suing, without giving of judgment, without cropping of hair or shaving, without washing, without bathing, without any unrighteous deed, without aimless running, without grinding of corn, without baking, without churning, without splitting of wood, without house-cleaning, without load on ox or horse or man, without any work which is the due of servitude, without going by any one outside the boundary of the district in which he resides, except for a proper reason.

[PERMISSIONS]

It is permitted to go to communion and baptism,¹ and to a physician and to a fire

of offering according to the Law (Ex. xxix. 39). Nocturns (*Midnocht*), the elements were created. Matins (*Iarmerge*), for Peter denied, shed tears of blood, and Christ was beaten in the house of Caiaphas. Till the end of Monday morning (matins) of the *Cáin* ("co fuini maitni die luain") may mean till after matins, 9 a.m. or, according to the *Antiphonary of Bangor*, vol. ii. p. 60, 3 a.m., which was the time of *gallorum cantus*. It is interesting to note that these canonical hours correspond with those of the Primitive Eastern office, no mention being made of Prime or Compline; cf. *Eriu*, p. 116.

¹ "But one may not go to baptism except there is necessity" (*Leabhar Breac*).

and to water, and to a milking-place, and to provide food for guests.

It is better for one who comes a distance on the night of the Lord's day (*i.e.* Saturday night) that he make but a little journey,¹ namely, till he reach the house that he is coming to. Clerics and nuns are permitted to go to a church ; every one is permitted to go to his own house after the proclamation of the law. One is allowed to visit and return from a cooking-pit without going an errand to any other place. One may go to a sermon and to mass, and to one in the toils of death. It is permitted to pursue thieves and law-breakers, to capture escaped prisoners, to prepare food for guests for the sake of Christ,² to go to a cry of distress and a shout, and to the rescue of cattle from hounds and from a quagmire. It is permitted to guard one's district, to tend cattle, to go after a swarm of bees or a cow running from heat, to get a nurse for a woman in travail, to let a

¹ "Inbleogan. i. escaire, ut est ascnam a thighe do chach iar n-imbleogan cana" (O'Davoren, No. 1145). Possibly the text should be amended to read "iar n-imblegend," "after-reading."

² "aurgnam bid do aigedu ar Dia" (*Leabhar Breac*, 204b45).

bull to a cow, and to drive heated cattle to a cooling pool or water-ford. It is further permitted to protect all farm land, together with every legitimate exemption that is prescribed by a judge who is most discreet and most devout in every tribe for enforcing the Law of the Lord's day. For every one is a transgressor of the Lord's day who violates its sanctity.*

[FINES AND PROCESSES]

The fine for transgression is four three-year-old heifers, together with forfeiture of equipment by the person who happens to bring it (*i.e.* the fine), whether horse or valuable. And it is the fine of theft that is imposed, namely, eight ounces¹ if the forfeiture is not made or unless the forfeited property is handed over to the person who collects the penalty therefor. And the person who sees the day transgressed and yet does not claim and exact the penalty is liable to the same fine as the person who violates the sanctity of the Lord's day. And it is under a multiple suit that this

¹ Ounces when occurring mean ounces of silver (*ungi argit*).

fine goes to that one of them that levies it, but only one fine is paid in respect of it. And no friend or kinsman shall prosecute unless they plead a case without negligence. One half of the fine goes to the collector and distrainer; the other half goes to lords and chiefs; and one-seventh goes to the guarantors from all these collectively.¹ And any one can prosecute and make distraint for the transgression, together with the suit brought by the person who exacts the penalty,² unless a tribe entrusts distraining of every kind to the person who in the opinion of the collector of the penalty is best for bringing suit in respect thereof.

It is legitimate for any one to bring suit on seeing the Lord's day spent in work in mills³ or on wooden cots or on roads. If, however, a person connives at such work, the fine is the same as for the man who violates the sanctity of the Lord's day; for no one is capable of

¹ "a-dhiri" (*Anecd.*) is amended from "atderi" (*Edin.*) to "aidbri," and is so translated. Cf. *Leabhar Breac*, 203b26.

² "fer a dire, nech a dire," lit. "the man of the penalty for it"; i.e. the person who collects the penalty for this offence.

³ "muilliu" is as in *Edinb.* and in footnote in *Anecd.*

8 THE LAW OF THE LORD'S DAY

bringing claim or suit in respect of the Lord's day who goes about on that day for other profit and who does not preserve its sanctity.

A pledge of the value of an ounce is to be given on the spot towards the satisfaction of the collector of the penalty, if he is legally capable of being so satisfied. If he is not capable of deciding thereon, bind him so that clerics or judges of a tribe shall not impugn, and let the parties at once proceed to do the will of the collector of the penalty attached who is the most discreet and the most pious in each tribe, or of a high chief who is over a tribe. And it is by the guarantor of Patrick's Law that the fines for the breach of the Law of the Lord's day shall be received.

If it be before midday that the guarantors are taken, distraint is endured at once unless a pledge is given ; if it is after midday that the guarantors are taken, it is on the morrow that the person in default suffers distress ; if the offender be not on the spot . . . either distraint is made or a pledge is given. If he gives the pledge, judgment is given at once or after three days, if the defendant so prefer.

And the distraint shall be on the goods that they wish.

If, however, the collector of the penalty attached uses first-hand evidence, and it is not available at once,¹ . . . on which judgment is delivered, namely, two ounces, and the judgment is payment after five days or fines after ten days. Now the valid first-hand evidence in respect of this Law is the witness of innocent lads without previous suggestion, the witness of a man of repute without concealment. Evidence on oath beyond that is not required, since it is an oath without indemnity given on one's soul. . . .² If it be a good witness that is contradicted by a good witness, the person who is sued shall produce sworn witness. If an unreliable witness is met by an unreliable witness, an oath is required over and above. Now the oath in denial of liability under this Law is that given by the alleged offender himself together with his father and mother; whom failing, his brother and his father's brother or whoever is liable for him; also two "chiefs

¹ The passage " 7 tairic tresiu fri laim brithi " is obscure.

² The meaning of "berid anteist de fiachaib" is not clear.

10 THE LAW OF THE LORD'S DAY

of kine" or nobles of the lowest rank, and a "lord of land" and their chieftains shall testify on soul and conscience that the alleged offender has not committed the offence for which he is sued.

If transgressors abscond, the guarantors shall suffer distraint, and shall pledge and pay double the dues to some one of the nobles, including pledge and food and fine in recompense. If the guarantors abscond, a *cumal*¹ of the value of eight ounces shall be exacted from them, and the prosecutor shall choose a bailiff in respect to hostage-surety and distress and guarantors near to the hand of a lord to whom these fines are to be given. Four suable persons together with their guarantors shall institute this suit, and there shall be no cross-case against the Law of the Lord's day till pledge is actually delivered, and judgment shall be given the first day it is demanded.

If any neighbour or associate or trespasser of a sept has not rendered the dues of soul-

¹ *Cumal*, originally the price of a slave woman, was the equivalent of three cows: this was the standard of value of a person's life as regards compensation (M. J. Macauliffe, *The Berla Laws*, p. 14).

friendship, and vigil by a cross and observances of fast days, the person who protects him or feeds him or who does not surrender him from his sept, is responsible for him before men and for his sin before God. Further, in case any hostage or guarantor or chief has not rendered the due of this Law, and in case any judge does not bring men into obedience to this enactment by reading it aloud in their presence regularly, or in case there be any young person who is not amenable to the justice of God or man (*i.e.* to courts ecclesiastical or civil), the person who sues shall fast upon them as representing God and Patrick, lest they be destroyed at the moment that is dearest to them, and lest Patrick be not an advocate for their souls,¹ and lest every curse that has been inflicted from the beginning of the world upon each one who breaks up God's Law and His commandments be upon their speech and upon their reputation before God and men, together with the curse of the men of Ireland apart from that ; and it is in despite of the prohibition of God

¹ The reading of *Edin*. "arnap aurlabrid Patraic dia n-anmonaib," is adopted.

12 THE LAW OF THE LORD'S DAY

and of Patrick that any hostage or guarantor or law agent shall protect them in the matter of advantages or necessities till the end of a year.

Now any workman or slave who does unnecessary work at his own pleasure shall forfeit pay till a year's end, over and above the fines for the transgression of the Lord's day. For none, whether mighty or miserable, goes free from transgression of the Lord's day, inasmuch as it behoves all men to guard its existence and obligation. It is also an enactment of this Law that none who goes about on the Lord's day is entitled to dues for protection or fasting.¹ And of whatever kind this activity is, it is of the nature of stripping and of outrage, except in the case of lawful reasons. And equally guilty are the

¹ Cf. "Ni dlig airchindech a reir for a manchu na dlig dire a seoit na toichneda a eclais side," "an erenach is not entitled to impose his will on his *manach* tenants who is not entitled to the fine of his *set* and the fasting of his church" (*Eriu*, vol. i, p. 219). Also "cumal fri toichniuth cach ae intan dombongatar feich, 7 cintaigh biathtae 7 folongat comnaidh fiach mani biathtat side," "a *cumal* for leaving any one of them fasting while fines are being levied, and offenders with regard to feeding, and they sustain a joint contract of debts unless they feed them" (*Cáin Adamnain*, 48). "Toichned" is "keeping a man fasting."

person who protects and the person who is protected, and the person who feeds and the person who is fed on the Lord's day save only for proper reasons. For it is in despite of the prohibition of God and Patrick that any one goes about on the Lord's day.

For whosoever brings suit in terms of this Law of the Lord's day, whether it is against his father or his mother or his brother, without negligence, without partiality,¹ without false suing, shall have no harm from God or man, and there shall be on him the full blessing of the folk of heaven and of earth, even as was commanded in the epistle which came down from heaven upon the altar of Rome: this is the epistle that was ordained upon the throne of heaven, and therein is reckoned the period of sanctity of the Lord's day as from the evening of Saturday till the beginning of Monday morning.

[DIVINE JUDGMENTS]

Whosoever, then, violates the sanctity of the Lord's day, there shall be lasting death

¹ " *lethbi*. i. *claon*, i. *leatrom no claon* " (*Archiv.* vol. ii. p. 406).

14 THE LAW OF THE LORD'S DAY

to his soul and to his children after him, and he shall have no portion in heaven with Christ and His apostles ; and every plague which God has brought upon the races of men since the beginning of the world shall be inflicted on the tribe and on the particular dwelling wherein the sanctity of the Lord's day shall not be observed. For it is on account of transgression of the Lord's day that God brings plagues upon the fields.

It is this that sets back every kind of produce that sea or land brings forth, both corn and milk and fruit, and it is it that causes barren . . . It is it that brings hunger and famines and destructive seasons on perverse tribes. It is it that brings foreign adventurers with swords of vengeance to carry the people away for servile work in heathen lands. It is it that brings battles and wars between nations, so that there is no peace nor happiness nor friendship in each place. It is it that sustains wrath and impiety in every dwelling, so that grief and melancholy and churlishness fill the hearts of all men. For worse than demons are they

who would destroy the Law of the Lord's day, and they would shut fast the kingdom of heaven if they were to reach it, so that there would be no rest therein for ever.,

III

AUTHENTICITY AND DATE

THE genuineness of the *Cáin Domnaig* is regarded as proved¹ on linguistic grounds, internal evidence, and early reference to it, especially in the *Annals of Ulster*, and the *Félire of Oengus*.² The text, when purged of the corruptions of later scribes, can be assigned definitely to the Old Irish period.³ This period ends about 900 A.D.⁴ The style of its prose, as well as archaic expressions and technical law terms found in it, suggest an

¹ Alice Stopford Green, *History of the Irish State*, pp. 287, 289.

² "An Epistle came with the pilgrim to Ireland with the *Cáin Domnaig* and other good instructions" (*Annals of Ulster*, under 886). "The four laws of Ireland. Patrick's rule not to slay clerics, and Adamnan's rule not to slay women. And Dari, the marvellous nun's rule not to steal oxen. And the rule of the Lord's day in no wise to transgress upon" (*Félire of Oengus*, p. 210). The *Félire* is regarded as having been written as early as the eighth century (Kuno Meyer, *Learning in Ireland*, p. 24).

³ I. G. O'Keeffe in *Eriu*, vol. ii, p. 190.

⁴ Dr. Eoin MacNeill in Appendix to Mrs. Green's *History of Irish State*, p. 422.

earlier authentic record of older unwritten doctrines of Irish law. Accordingly, the date in which this *Cáin* took written form is pushed back to the early part of the ninth century,¹ or to the eighth century according to the *Félire*. The internal evidence is quite as clear. The judgments of heaven are to fall on all transgressors of the sanctity of the Lord's day, and these judgments take the form of cruel invasions and slave traffic by "races of adventurers" (*cenelui eghtranna*) or gentiles (*gendtie*).² The pious in every age have attributed the catastrophes of their time to the flagrant breach of the divine commandments, and the cruelties of the Norsemen were thus explained to the people with a clear ethical purpose. Further, the judge to whom the administration of this law is entrusted must himself be "wise" (*góithium*) and "devout" (*cráibdigim*). This

¹ Kuno Meyer in *Zeitschrift für Celtische Philologie*, vol. i. p. 495.

² The *Annals of Ulster*, under 794, translates *genti*, "Norsemen." The reference in the *Cáin* to the Norsemen must be much earlier than 900 A.D., for by that time the "Norsemen were no longer the ferocious heathen of their earlier record. They intermarried with the Irish, and their settlements in Ireland became part of the Irish body politic" (Eoin MacNeill, *Phases of Irish History*, p. 265).

points to a time subsequent to 572 A.D., but before the "brehons" could safely be regarded as entirely free of inherited pagan conceptions in criminal jurisdiction, and familiar with the divine sanctions of the *Cáin*.¹

Although the "Epistle of Jesus," which generally accompanies the *Cáin*, may be dismissed as fictitious as regards its heavenly origin, for there were many such letters,² the existence of Conall Mac Coelmaine, abbot of Inis Coel, in Donegal, who professes to have received the *Cáin* along with the "Epistle," "sent from heaven into the altar of Peter the Apostle in Rome," cannot be disputed. This Conall was a relative and contemporary

¹ Cf. Eoin MacNeill, *Celtic Ireland*, p. 25 ; Mrs. Green's *History*, pp. 161, 235, 236.

² There is a capitulary of Charles, 789 A.D., directing that such pretended letters from heaven should be burnt (Haddan and Stubbs, *Councils*, vol. iii. p. 616). The original of these miraculous letters can be traced back to the sixth century (G. G. Coulton, *The Medieval Village*, p. 531). This coincides with the time of Conall, and it is quite probable that a copy of the letter reached Ireland in his time. Its origin is thus described by Abbot Eustache de Flay, in 1201 : "Mandatum sanctum Dominicae diei, quod de coelo venit in Jerusalem, et inventum est super altare Sancti Symeonis, quod est in Golgotha, ubi Christus crucifixus est pro peccatis mundi" (*Chronica Rogeri de Hoveden*, vol. iv. p. 167).

of St. Columba. They were both descended from Conall Gulban, one of the three sons of Niall of the nine hostages and founder of the Cenel Conaill. Conall died *circa* 590 A.D.¹ His day, which is still observed, is May 22. But to explain the absence of any reference in literature to the *Cáin* from 590 A.D. to 886 A.D., the date given in the *Annals of Ulster*, has presented a real difficulty.² One explanation may be that after the introduction of organised Christianity to Ireland, Latin was regarded as the most honourable literary medium. If the "Epistle" was in Latin, as it must presumably have been, for it bears traces of a Latin source, there was no apparent reason why it should not have appeared in literature. The reverse, however, is true of the *Cáin*, which does not show

¹ O'Curry, *Manners and Customs*, vol. ii. p. 33; *Eriu*, vol. ii. p. 212; Eoin MacNeill, *Celtic Ireland*, pp. 132, 133.

² Cf. *Eriu*, vol. ii. p. 212. The Epistle appeared in Irish. Professor Pribsch thinks, but does not prove, that the Irish translation could scarcely be before the ninth century. The *Cáin Domnaig*, he admits, "was known at an early date in Ireland" (*Otia Merseiana*, vol. i. p. 129 ff.). Professor Pribsch appears to have read only the "Epistle," which is but a fanciful preamble to the *Cáin*. The *Cáin* is free of the hideous calamities and strange allusions found in the "Epistle." Kuno Meyer's observations (*Life of Colman mac Luacháin*, p. xiv) therefore lose their force.

traces of a similar origin, but appears to have taken literary form in Gaelic. For it was only, indeed, after the death of St. Columba that the full bearing of his success at the Convention of Druim Ceata (574 A.D.), in favour of the men of native learning, known as *filid*, was revealed. During the sixth century there are unmistakable evidences of the blending of the native learned tradition with the new Christian learning. The native schools with their wide range of study were becoming Christian, and they were adopting the apparatus of Christian learning. After the sixth century the progress of native culture became more rapid, but it was still confined to giving expression in literary form only to grammars, civil laws, and verses with Latin metrics and such matters as were purely secular.¹ The use for sacred purposes of a language that was associated with paganism was inevitably slow and gradual. But it was proceeding, and in its earlier stages the native colour would be more distinct. This is manifest in the case before

¹ Eoin MacNeill, *Phases of Irish History*, pp. 175, 176; *Celtic Ireland*, p. 85; Mrs. Green's *History of the Irish State*, p. 161.

us, as in the stone in St. Clement's Church, Rodel, Harris, with its heathen and Christian symbolism intertwined,¹ where we have the embodiment in literary form of traditional legal penalties grafted on to Christian prohibitions. Accordingly, when the *Cáin* was promulgated as an enactment at the Assembly of the people by the judge (*brithem*) or lord (*ard-flaith*), the incident of its promulgation at such tribunals of administration or normal instruments of judicature was sufficiently abnormal to be noted by the Annalists, who, as a rule, recorded only what was abnormal.² But this does not invalidate the belief that its contents were in vogue among the people long before then. On the contrary, the *Cáin*, which bears ample evidence of its native origin, on the analogy of the laws of Ine of Wessex,³ would have been a popular legal custom before it received the stamp of royal authority by being recognised as an official code in 886 A.D.

Further, it is important to observe that it is the apostolate and not the primacy of Peter

¹ Cf. Plummer, *Vitae Sanctorum Hiberniae*, vol. i. p. cxxix.

² *Phases of Irish History*, pp. 320, 321, 178, 179.

³ *Ency. Brit.*, vol. ii. p. 36a.

that is recognised in the "Epistle" and the *Cáin*, and that Patrick and not the Pope is the acknowledged vicegerent of God. Both these facts point to a period in the history of the Church prior to the Synod of Whitby in 664. This law seems to be, then, like the observance of Easter, a peculiar feature of the Scoto-Irish Church, and may well be a part of what Colman of Lindisfarne claimed at Whitby as the heritage received from "our forefathers, men beloved of God." The wide divergence in tradition and practice that existed is clearly admitted by Wilfrid, who, according to Bede, scolded the Scots and "their accomplices in obstinacy, the Picts and the Britons, who foolishly, in these two remote islands of the world, and only in part even of them, oppose all the rest of the universe." "And," continued Wilfrid disdainfully, "though your fathers were holy, do you think that their small number, in a corner of the remotest island, is to be preferred before the universal Church of Christ throughout the world? And if that Columba of yours (and, I may say, ours also, if he was Christ's servant) was a holy man and powerful

in miracles, yet could he be preferred before the most blessed prince of the apostles, to whom our Lord said, 'Thou art Peter . . . ?' " It was in a Church with such religious traditions as Wilfrid disapprovingly refers to, where Patrick and Columba held the primacy of order, and where, as yet, Peter was unknown as the "prince of apostles," in the ecclesiastical connotation of that phrase, that the *Cáin* must have originated.

But, apart altogether from this accumulated evidence for its antiquity and authenticity, the *Cáin* is undoubtedly the oldest authentic ecclesiastical and civil law, bearing on the Lord's day, in the history of the Church in Ireland and Scotland, and it is accordingly of great value¹ to the student of the religious and social life of early Scotland.

¹ *Zeitschrift für Celtische Philologie*, vol. i. p. 497.

IV

ITS NATIVE CHARACTER

IN order to estimate aright the native and original character of the *Cáin*, it is necessary to compare and contrast it with the canon and State laws bearing on the Lord's day which preceded it and were subsequent to it, and to see how far these influenced its formation or it influenced them. From the beginning of the Christian Church, the first day of the week is the usual day for common worship. This observance, as in the main a commemoration of the resurrection, and not a rest after creation, differed in motive and character from the Sabbatic rest of the contemporary Jews. Ignatius contrasts the Lord's day and the Sabbath, and Justin Martyr derives the sanctity of the Lord's day from the creation and resurrection. Before the Nicene age the observance was worship more than cessation of labour. Tertullian is the first to insist on the cessation of labour

on the Lord's day,¹ and regards its character as a holy day. In the East, however, a parallel observance of the Sabbath and Lord's day is recognised.² Athanasius repudiates the keeping of the Sabbath, but affirms the observance of the Lord's day "as a memorial of the second creation." Augustine, while he holds that the Fourth Commandment is in no literal sense binding on Christians, emphasises its festal character. Generally, then, the Eastern Church observed the day more strictly than the Western, a fact of importance in view of the intimate relation of the Celtic Church with the Eastern Church through Massilia (Marseilles) and Gaul.³ Moreover, the binding obligation of the Fourth Commandment was never regarded in the East particularly as of merely a transitory character, and its rest was interpreted chiefly as enjoining a cessation from sin, and the day itself as the new era introduced by the advent of Christ. The idea of rest is also

¹ Gwatkin, *Early Church History*, vol. i. p. 262; Duchesne, *The Early History of the Church*, vol. i. pp. 37, 207, 396.

² *Apostolic Constitutions* (A.-N.C.L.), pp. 186, 196, 197.

³ *Phases of Irish History*, p. 167; J. B. Bury, *Life of St. Patrick*, pp. 11, 37 sqq.

present.¹ Chrysostom regards the fundamental principle in the commandment to be the dedication of a whole day in seven to be set apart from all worldly engagements for exercise in spiritual matters.²

From the time of Tertullian the idea that the Lord's day is the Christian Sabbath was rapidly gaining ground among the masses of Christians in the West. This arose chiefly from reverent familiarity with the Old Testament, the analogy of heathen festivals, and the increased attendances at church services, which necessitated entire cessation of labour. In 305 the Council of Illiberis, in Spain, made the observance of the Lord's day compulsory, punishing delinquents with excommunication. The Council of Macon (585)³ laid down that the Lord's day "is the day of perpetual rest, which is suggested to us by the type of the seventh day in the law and the prophets," on which all kinds of business

¹ *The Apostolic Constitutions*, p. 24, enjoins: "Let the slaves work five days; but on the Sabbath and the Lord's day let them have leisure to go to church for instruction in piety." Cf. *Cáin Domnaig*.

² *10th Homily on Genesis*.

³ Hefele, *History of Councils*, vol. ii. p. 143, vol. v. p. 234, also vol. iv. p. 407.

should be discontinued. Parallel with this Christian movement for a day of rest, State decrees were issued which apparently received ready acceptance from the masses of the population. The first and most important of these was Constantine's famous decree of 321.¹ It enacted that all courts of justice, inhabitants of towns, and workshops were to be at rest on Sunday (*venerabili die Solis quiescant*), with an exception in favour of agriculturists and vine-dressers. A long series of imperial constitutions followed, most of which are incorporated in the Code of Justinian. By these, emancipation and manumission were the only legal proceedings permissible on the Lord's day (*die dominico*). Pleasure and business were forbidden. No spectacle was to be exhibited in theatre or circus.² The decrees of Councils were embodied in the *Decrees* of Gregory

¹ Schaff, *Christian Church*, vol ii. p. 380.

² These State decrees affected mankind from Spain to Mesopotamia, and some of them were directed specially to Turkey, Greece, Asia Minor, Syria, and Egypt. In Ireland and Scotland, which were outside the Empire, the social and religious life of the people was influenced solely by the statutes of their own kings, courts, assemblies, and churches.

(540-604), and are of importance for our purpose, as marking the stage at which the law of the Lord's day had arrived, when the *Cáin* was formulated. "We decree" (says the *Decrees*, "that all Sundays be observed from Vespers to Vespers, and that all unlawful work be abstained from, so that in them trading and legal proceedings be not carried on, or any one condemned to death or punishment, or any oaths be administered, except for peace or any other necessary reason." Works of necessity in connection with perishable matter like fish were allowed, provided a due proportion of the gain from such work was given to the Church and to the poor. The way was thus being prepared for the full identification of the Lord's day with the Sabbath. This took place in the famous decree of Charlemagne in 789 A.D., which forbade all ordinary labour on the Lord's day as a breach of the Fourth Commandment. The potent instrument in this crystallisation of pious thought was undoubtedly the great Alcuin.¹

¹ Cf. Hastings' *Ency. of Religion and Ethics*, vol. xii., art. "Sunday." The *Ency. Brit.*, vol. xxvi., art. "Sunday." The historic phrase of Alcuin runs: "Cujus

Here it should be noted that the undoubted Eastern character of the asceticism of the early Celtic Church found expression chiefly in love of pilgrimages, as in the case of Brendan, and others, for places of retirement in ocean islands such as Iceland. Later, however, authority had to be exercised to suppress this misguided zeal,¹ particularly when Rome was the objective of the *peregrini*, as the Celtic pilgrims were named. Rome was, however, occasionally reached, especially in the pontificate of Gregory the Great,² but it was only to find the quest a matter of "much folly, much frenzy, much loss of sense, much madness."³ Whether, then,

observationem mos Christianus ad diem dominicum competentius transtulit."

¹ Gougaud, *Gaelic Pioneers of Christianity*, p. 33; Plummer, *Vitae Sanctorum*, vol. i. pp. cxxii sqq. and notes.

² *Ibid.*

³ The disappointment of a pious ninth-century Gaelic pilgrim with ecclesiastical and religious Rome is further expressed in the following profound thought:

"To go to Rome

Is much of trouble, little of profit:

The king whom thou seekest here,

Unless thou bring him with thee, thou wilt not find."

(Kuno Meyer.)

Ancient Irish Poetry, p. 100; Stokes and Strachan, *The-saurus Palaeo-Hibernicus*, vol. ii. p. 296; Gougaud, *Gaelic Pioneers*, p. 34.

Conall Mac Coelmaine ever visited Rome, and was similarly disappointed, or not, it is perfectly clear that the *Cáin* differs materially from Gregory's *Decretals*, in its permissions, prohibitions, and penalties. Further, the *Cáin* is a Sabbath law, and although the Fourth Commandment is not mentioned, it is implied throughout, and the whole law culminates in the solemn warning that the man who does not rest on the Lord's day is worse than a demon, and that he shuts the kingdom of heaven against himself. The *Cáin* prohibits washing of the head or body on the Lord's day, while Gregory fulminates against the prohibition of baths on that day.¹ All penalties in the *Cáin* are in terms of ancient Irish laws and not the Roman law. Any direct connection, then, between the law of the Celtic Church and Roman laws, canon or civil, beyond the length of the day and certain prohibitions indicating a similarity in the working life of similar people, cannot be proved.

It is generally admitted that the main source from which the Carolingian revival of

¹ Hastings' *Ency. of Religion and Ethics*, vol. xii. p. 106a.

learning and religion received its impulse was the teaching and piety of the Gaelic *peregrini*, who brought spiritual force into a world well-nigh sunk in materialism.¹ Charlemagne is almost reproached by his biographer Einhard for his love of them, and for welcoming them on such a lavish scale as to overtax the resources of his palace.² Whether or not Alcuin, as his biographer suggests, was attracted to the Court of Charlemagne by the king's reputed patronage of "learned men," it is beyond doubt that Alcuin and the Gaelic *peregrini* were there, and inculcated on Charlemagne and his people the value and affinity of learning and godliness,³ and that it was through their influence mainly that the king sent forth the famous capitularies of 787 and the following years. The form of godliness the *peregrini* taught was undoubtedly that which they

¹ Reginald Lane Poole, *Medieval Thought and Learning* (1920), pp. 12, 15; William Turner, "Irish Teachers in the Carolingian Revival of Learning" (*The Catholic University Bulletin*, Washington, xiii.); Gougaud, *Gaelic Pioneers*, *passim*; Zimmer, *The Irish Element in Medieval Culture*, p. 130.

² Poole, *Medieval Thought*, p. 16; Gougaud, *Gaelic Pioneers*, p. 29.

³ Poole, *Medieval Thought*, p. 16.

were taught in their native Church. For there is no reason to suppose that Alcuin, although he may have imbibed what knowledge he had of Greek, and his later loyalty to Gregorian ecclesiasticism, from the Greek from Tarsus, Theodore, Archbishop of Canterbury, differed from his Gaelic contemporaries with respect to truth and godliness. The place of training of Alcuin (Albinus), regarded by Einhard as English, has been a matter of dispute.¹ There can be no question of Alcuin, however, who recalls the services rendered to Christianity by the *doctissimi magistri de Hibernia* in England, Gaul, and Italy,² and who wrote in terms of filial loyalty to Colchu, the famous teacher of Clonmacnoise, being not only familiar with, but truly representative of the traditional learning and

¹ Meyer (*Learning in Ireland*, p. 42), Joyce (*Social History*, vol. i. p. 412), and Healy (*Ireland's Ancient Schools*, pp. 272, 273) all claim him as a student of the Irish Monastic school of Clonmacnoise. Turner (*Catholic University Bulletin*, vol. xiii. p. 388), on the other hand, thinks it is more probable that he studied at York, where he came under Gaelic as well as Roman influences. Cf. Hugh Graham, *The Early Irish Monastic Schools*, p. 89.

² Gougau, *Gaelic Pioneers*, p. 65.

piety of the Irish Church.¹ Accordingly, it would seem to follow that, when Charlemagne gave expression to the Sabbatic conception of the Lord's day in royal decrees to the Franks, under the influence of his religious tutors, no new law was formulated, but that the law of the Lord's day which operated in the country of his tutors was given a wider operative range in new territories. Similarly, when the warrior King Ine of Wessex gave royal sanction at the English Synod of 691-2,² to decrees prohibiting "servile labour" on the Lord's day, he did so under the religious impulse and guidance received from Aldhelm, who was probably present.³

Aldhelm received his early scholastic training under Maeldub, an Irish scholar and monk who settled at Malmesbury. At the age of thirty he came under the influence of the pro-Roman teaching of the African

¹ Turner, *Catholic University Bulletin*, vol. xiii. p. 388 ; Graham, *Irish Monastic Schools*, pp. 89, 90.

² Thorpe, *Ancient Laws*, p. 45.

³ Hefele, *Councils*, vol. v. p. 243. Professor Priebisch shows clearly how deeply the "Wulfstan Homilies" are influenced by Irish reverence for the Lord's day (*Otia Merseiana*, vol. i. p. 129 ff.).

scholar, Hadrian. But from 661 A.D. he returned to Malmesbury and continued as a monk under Maeldub.¹ Although a vigorous and even an acrimonious propagandist of the anti-Celtic observance of a formal Christianity in the *unitas catholica*,² as his letter to Geruntius clearly shows, he retained two characteristic features which he inherited from his training in Celtic tradition, and which he could not discard, namely, love of learning,³ and zeal for personal piety and evangelising.⁴ Through him, then, the Ine laws gave expression to the Celtic reverence for the Lord's day. Further and more explicit reference to the influence of the *Cáin* in England is found in an extant letter written between 830 and 837 A.D. by Egred, Bishop of Lindisfarne, to Wulfsige, Arch-

¹ *Ency. Brit.*, vol. i., under "Aldhelm"; Giles, *Aldhelm Opera*, p. 94; Graham, *Irish Monastic Schools*, p. 142.

² *Ency. Brit.*, *ibid.*; Zimmer, *Celtic Church*, pp. 71, 130.

³ Graham, *Irish Monastic Schools*, p. 142; Gougaud, *Gaelic Pioneers*, p. 66; Zimmer, *Celtic Church*, p. 71.

⁴ Finding his people slow to come to church, he is said to have stood at the end of a bridge, singing songs in the vernacular, thus collecting a crowd to listen to his exhortations on sacred subjects (*Ency. Brit.*). Such a man was likely to insist on a strict observance of the Lord's day.

bishop of York.¹ Lindisfarne was then thoroughly Romanised, and Egred is significantly disavowing complicity in the alleged heresies of a certain priest, Pektred, living, it would appear, in the diocese of York. The heresy had reference to the heavenly origin and strictness of the *Cáin*. The source of Pektred's information was a certain deacon Niall (*Nialum diaconum*), whose name makes clear the country of his origin.²

In the East of England, even in Kent, the very heart of the Augustine mission,³ it is

¹ Haddan and Stubbs, *Councils*, vol. iii. pp. 615, 616. "Ergo enim pro me vere fateor nullo modo illis erroribus quos in libro Pehtrédi scriptos esse demandasti, nobisque prius demonstrasti assensum praebere velle . . . honoremque Dominici diei ob gloriam resurrectionis Ejusdem Fili Dei, non sabbatum cum Judaeis, omnimodis servare justum credimus et vere scimus; ac nostri Salvatoris obaedire mandatis, Qui XL diebus ac noctibus pro mundi jejunavit salute, tribusque diebus ac totidem noctibus per scripturas in corde terrae . . ." (Stubbs, *Councils*, vol. iii. p. 615).

² Cf. Professor Priebisch, in *Otia Merseiana*, vol. i. pp. 129 sqq. Niall, whose supposed resurrection Pektred refers to, is mentioned in the *Annals of Ulster*, vol. i. p. 371, as the "son of Iallan, who suffered from paralysis during thirty-four years, and who was disturbed by frequent visions, as well false as true, rested in Christ," in 859. For further reference, see *Annals of the Four Masters*, vol. i. pp. 489, 493; *Three Fragments of Annals of Ireland*, p. 135.

³ It seems from the entire absence of any scruples about the Lord's day in the list of questions put by Augustine to

significant that there is no earlier record of Lord's day laws than those of Whitraed, King of Kent, in 696 A.D.¹ And these, though only a reproduction of Ine's laws, were also made a State enactment under the influence of bishops who received Irish consecration, with the single exception of Agilberct, a Frenchman, who, however, was trained in Ireland. It would seem, therefore, that the Frankish Empire and the Anglo-Saxon kingdoms adopted a strict observance of the Lord's day, a particular characteristic of the Irish Church, from the Irish religious teaching of the tutors and guides of their kings.

Gregory that such a matter did not give him any trouble (Bede, *Ecclesiastical History* (Giles ed.), pp. 4-51). Cf. *The New Schaff-Herzog Encyclopedia*, under "Sunday."

¹ Thorpe, *Ancient Laws*, p. 17.

V

THE LAW APPLIED

WE have good reason to believe that the *Cáin* was strictly applied, for the saints of the Celtic Church were strict observers of the Lord's day.¹ This was done with an ethical and moral purpose. The aim was to create reverence and mould the civilisation of the people according to high religious standards. The task was a heavy one, in view of the habits and customs that developed during the long ages of nature worship and druidism. To help her in her task the Church invoked the help of the civil power to administer this particular law, so that the Church and State co-ordinated in introducing and fostering a Christian civilisation. The "kings," "princes," and "judges," or the equivalents of the modern civil magistrate, in administering State laws, were to remember that they were not to be excused if they gave priority to the claims of the civil law over that of the *Cáin* by

¹ Cf. Plummer, *Vitae Sanctorum*, vol. i. p. cxxiii.

declining to protect the Lord's day, or being indifferent in cases of conflicting claims, for "not to protect it was to violate it." Such rulers were not all Christian, but the insistence of the *Cáin* on "pious" and "upright" administrators being secured, and on its proclamation in public secular assemblies,¹ shows, no less than the fact that the four great laws² of Ireland which affected all phases of life were of a Christian texture, how much, and how early, ethical principles permeated the whole life of the community.

The saints brought down the judgments of heaven on those who violated the sanctity of the day. St. Aed, angry with women who washed their hair on the night of the Lord's day in defiance of his warning, penalised them with "the loss of the whole hair of their head." But, on the women showing penitence, he had a more luxurious "covering of hair" instantly restored to them.³ For per-

¹ Cf. Green, *History of Irish State*, p. 289.

² "The four laws of Ireland: Patrick's law, not to slay clerics; And Adamnan's law, not to slay women; And Dari the marvellous nun's law, not to steal oxen; And the law of the Lord's day, in no wise to transgress upon it" (*Félire*, pp. lxiv, cxlvii).

³ Plummer, *Vitae Sanctorum*, vol. i. p. 43.

sistency in cutting wood on the Lord's day against the remonstrance of St. Colman, a miserable man could not free himself from the axe that became firmly fixed on the wood until the Saint was pleaded with to release him from his misery.¹ St. Cellach, on being told that Guaire was offended because the Saint passed him by in silence, and being asked to "come even now and speak with him," replied, "I will not go; 'tis Vesper time, and no transgression of the Lord's day do I."² The *Sons of Ua Corra* (pilgrim navigators before 780 A.D.) came to an island where they found "a man digging with a spade, the handle of which was on fire, and being asked the cause of so strange a circumstance, replied, that on earth he was accustomed to dig on the Lord's day and that this was the punishment awarded to him. On another island they found a man riding a horse of fire, who told them that he had taken his brother's horse and rode on it on the Lord's day."³ St. Patrick as he was resting on the Lord's day at the seaside heard the noise of heathen folk busy making a rath. He

¹ *Ibid.* p. 263.

² *Silva Gadelica*, vol. i. p. 53.

³ O'Curry, *MS. Materials*, p. 293.

called to them and forbade them to work on the Lord's day. They merely burst into laughter and mocked the saint. "But," said St. Patrick, "although ye labour, it will not profit you." So it happened. A storm suddenly sprang up, and their rath was swept away.¹ The experience of a sage about 830 A.D. is described as follows: "Now another sage was in his cell (*reclés*). An angel of God used to come to him at every nones with his ration of food. As he was making the round of the cemetery on the Lord's day (*dia domnaig*), he cast a little chip from the path with his staff (*bachall*). Thereafter he was deprived of the heavenly service from that canonical hour (*tráth*) to another (*i.e.* altogether). Whence it is said :

The sage who cleansed the path
on the Lord's day will repent it ;
his share of food from heaven arrived not :
right dread was the reproach."²

Even inanimate objects are personified and endowed with moral qualities that are used in defence of the sanctity of the Lord's day, as the mill that refused to grind

¹ "Muirchu's Life of Patrick," in Newport I. D. White's *St. Patrick*, p. 97.

² Julius Pokorny, *Old Irish Grammar*, p. 15.

on the Lord's day.¹ These and other instances show clearly that the day was observed Sabbatically, or by strict rest, as well as worship. St. Patrick, indeed, is said to have been "visited by the everlasting God every seventh day," and knowledge of this spread even in Britain.² It was his custom not to walk abroad from the eve of the Lord's day at night till the morning of the second day of the week, and then, "as one man talks with another, so Patrick enjoyed the angels' conversation."³ In the Columban Church the day was observed similarly. The days of the year were *ordinary* or *solemnnes*. In the former the customary *cursus* were observed at the canonical hours, but from these outside workers were apparently exempted. The *dies solemnnes* were the *dies Dominicae* and *Sanctorum Natales*, which were observed in the same manner, with, however, greater solemnity in the observance of the Lord's day. No labour was carried on, and the Eucharist was celebrated.⁴ St. Columba,

¹ *Irish Nennius*, p. 216.

² Newport I. D. White, *St. Patrick*, p. 103; J. B. Bury, *Life of St. Patrick*, p. 307.

³ White's *St. Patrick*, p. 109.

⁴ Reeves, *Life of St. Columba*, pp. cx, cxi, 290.

like St. Patrick, observed the Lord's day Sabbatically.¹

It is not necessary for us to accept or reject the genuineness of the illustrative stories given above, nor should we pass a harsh

¹ The late Professor MacEwen, in his *History*, vol. i. p. 53, writes: "To the Lord's day no sabbatical ideas were attached." This is merely accepting without discussion the statement of Bellesheim (*History of the Catholic Church of Scotland*, Hunter Blair's trans., vol. i. pp. 249, 250), who follows Skene in stating without any valid documentary authority that Saturday was observed as the Sabbath and not the Lord's day. Adamnan's reference to St. Columba's saying, "This day (Saturday) in the Holy Scriptures is called the Sabbath, which means rest, and it is indeed a Sabbath to me, for it is the last day of my present laborious life, and in it I rest after the fatigue of my labours," is surely misunderstood by Skene and Bellesheim when they deduce an argument from it that Saturday was observed as a "Sabbath." The meaning seems clear. St. Columba names Saturday "Sabbath," as was the custom, and says truly that the word means "rest," but that does not imply that it was the weekly "rest day." This is made perfectly clear by the Saint himself, when he orders the monks to rest and worship on the day of the death of St. Columban mocu Loigse, *as on the Lord's day*, in honour to his departed fellow-worker. If Saturday were the "rest day," it surely would have been given as the exemplar and not the Lord's day. "Quadam itidem die, dum fratres, se calceantes, mane ad diversa monasterii opera ire prae- pararent, Sanctus e contra ea die otiari praecipit, sacraeque oblationis obsequia praeparari, et aliquam, quasi in Dominico, prandioli adjectionem fieri" (Reeves, *Vita Columbae*, p. 201). What the Saint is solemnly and confidently referring to, is "the rest that remaineth to the people of God" (Heb. iv. 19).

judgment on the credulity of the people who believed in them. For, as it has been said in a like case, "we must not reproach any one for having had the mentality of his own times."¹ But we are constrained to admit that the belief of the people in those judgments for violation of the law of the Lord's day proves how high a place the sanctity of the day held in their esteem. They tried to live according to it, and guarded it with jealousy, without excusing themselves for the slightest deflection from its solemn obligations. This becomes even more evident in the processes at law, the fines and penalties imposed on all guilty of the infraction of this law, the care used in these processes to have clear evidence and a just judgment, and the severity of the penalty where guilt was proved. It is indeed remarkable, and indicative of the seriousness with which the violation of the law was regarded, that the fine of a *cumhal*, or the equivalent given for the compensation of a life, was inflicted on any one who wilfully neglected to prosecute one seen violating the sanctity of the Lord's day.

¹ Duine, *Annales de Bretagne* (April 1913), p. 341.

VI

THE LAW AND SOCIAL LIFE

THE *Cáin* unfolds to us the social order of those remote times, and in many respects the picture is not dissimilar to that of the life of a rural community (*tuath*) in the same area in modern times. Dr. Plummer, in reviewing the lives and times of the Saints of Ireland, says that "the chief amusement was war."¹ But contemporary secular tales show that less "brutal sport" existed in the form of ball, dice games, draughts, and hurly or shinty. The Brehon laws (V. 109) "mentions equestrians, namely, those who stand on the backs of horses at fairs." But these and similar equestrian amusements must have been more prevalent and frequent than at "fairs," otherwise why should they be specifically inhibited by the *Cáin*, when the "fairs," or "buying" and "selling"

¹ Plummer, *Vitae Sanctorum*, vol. i. p. cviii.

or "bargaining," were already proscribed by it?

The mode of life seems to have been largely, but not wholly, pastoral and agricultural, for the produce of the sea is referred to, and fishing for salmon on rivers was common.¹ The food consisted of the pro-

¹ Among other things which, according to the *Ancient Laws of Ireland*, vol. v. p. 483, are the full property of every *tuath*, belonging in equal right to every condition of persons are: (1) the salmon of the place, one killing is lawful; (2) the quick sweeping of every stream, a single drawing of the net is lawful. Cf. MacNeill, *Celtic Ireland*, p. 167. It is interesting to note here, as showing how an ancient law could be transmitted orally to modern times and its prohibition made to apply to other industries than those originally named, that the late Dr. Alexander Carmichael obtained the following poem, which is the ancient *Cáin* in verse, from Janet Currie, South Uist, a descendant of the famous MacMhurich bards. The translation runs:

"The Lord's day, the seventh day,
 God ordained to take rest,
 To keep the life everlasting,
 Without taking use of ox or man,
 Or of a creature Mary desired,
 Without spinning thread of silk or of satin,
 Without sewing, without embroidering either,
 Without sowing, without harrowing, without reaping,
 Without rowing, without games, without fishing,
 Without going out to the hunting hill,
 Without trimming arrows on the Lord's day,
 Without cleaning byre, without threshing corn,
 Without kiln, without mill on the Lord's day."

(*Carmina Gadelica*, vol. i. pp. 219, 221.)

duce of the land, flesh, meal, milk, butter, honey, and fish. The meal was ground by the quern as well as the mill. While the laws of property gave a free right to select from the unappropriated forests the wood necessary for a "yoke and plough," for cooking (as wood was the most common fuel for domestic use), for making of barrels and churns and churn-staffs, and the timber of a carriage for a corpse, for herbs for flavouring, and from the seashore the dulse and ordinary seaweed, the *Cáin* prohibited their collection on the Lord's day.¹ The kneading of bread, the making of butter and meal, and indeed every preparation of food that could conveniently be made on Saturday, were prohibited. Such restrictions would seem fitted to crush the social life of the people. But that was not the intention, for this apparent severity was tempered with mercy. Fire and water could be procured, the cows may be milked, and the swarm of bees may be led back to the hive. Even a part of a necessary journey can be begun on the night

¹ *Ancient Laws of Ireland*, vol. v. pp. 483, 487; MacNeill, *Celtic Ireland*, pp. 167-9.

of the Lord's day. Animals as well as a person in distress are to be succoured. The wolf was a terror to the flockmaster as were human enemies to the community, and against both sources of danger the *Cáin* permitted the people to protect themselves on the Lord's day. The physician could, of course, go on his rounds, and the maternity nurse must obey a call. Worshippers must go to worship. But there must be no loitering or paying of visits to houses, for "it was contempt to God to do so."

The clear purpose and method of the *Cáin* was to produce a social life of restfulness and reverence, and there is no reason to doubt its success. This was done, however, not merely by persuasion but by the strong power of the ecclesiastical and civil courts. But every appearance of injustice was to be eliminated, for a criminal under this law was given a choice of courts, ecclesiastical or civil. The processes in either instance were exceedingly complex and elaborate, indicating alike a solemn regard for the sanctity of the day and a corresponding serious view of its profanation. The moral worth of princes, rulers,

workmen, and slaves was to be determined by their attitude to this law. There were pagan rulers still, but consistency demanded that the administrators of this law should illustrate by their own conduct their respect for the law they enforced. For there must be no incongruity in their morally healthy state. Its citizens to be useful must have character, and character must be built on a religious foundation. Yet where remediable weaknesses are present they must be dealt with gently. If unnecessary work was done, at their own pleasure, by "working men and slaves,"¹ they forfeited a year and a day's pay, besides having to pay the ordinary fines for the transgression of the Lord's day. Stern as the law is, it would be a mistake to think that it either intended to, or pro-

¹ "At the foot of the social scale were the slaves: *mug*, a man-slave; *cumal*, a woman-slave. Apparently numerous in heathen times, slaves diminished in numbers in the early Christian period, but became once more numerous owing to the slave traffic carried on by the Norse settlers" (MacNeill, *Celtic Ireland*, p. 110). These slaves could secure their freedom by their own exertions, as is hinted at in the *Cáin*. *Mug*, a slave, or *mughaich*, descendants of slaves, is still found in the latter form in the Highlands, applied to the descendants of the retainers of a chief.

duced, a spirit of gloom on the Lord's day.¹ All submitted to the law, and it is indeed a striking testimony to the influence of our early Scottish Christianity that not only the humble submitted without bloodshed, but their powerful rulers, who had so recently emerged from heathenism, and "who were, perhaps, the most intensely proud class of men that ever existed."²

The sanction in the *Cáin* with reference to a cow seems to exclude the idea of collective ownership in stock. The community, or *tuath*, do not seem to have had their stock in common, a fact which itself suggests individual ownership in property. The *fine*, or family group, in relation to its neighbours and to exacted dues, acted in joint capacity, but within the family lands and goods were held in private ownership by its several

¹ The atmosphere of the day is retained in the following traditional lines :

"The weeping of the Lord's day is out of place,
A woman doing it is untimely;
Let her weep betimes on Monday
But not once on the Lord's day."

(*Carmina Gadelica*, vol. i. p. 221.)

² MacNeill, *Phases of Irish History*, p. 354.

members.¹ This is borne out by St. Columba's interesting conversation with the poor woman whom he met gathering nettles for nettle broth in the churchyard of Iona. "Why art thou doing that, thou poor woman?" says Colomb Cille. "Oh, dear Father," quoth she, "I have one cow, and she has not yet borne a calf, and I am expecting it, and this is what has served me a long time back." Colomb Cille is smitten in his conscience, and resolves to live henceforth on nettle broth, saying, "Since it is because of her expecting the one uncertain cow, that she is in this great hunger, meet were it for us though great be the hunger wherein we should abide expecting God. For better and certain is what we expect, the eternal kingdom."²

This individualism in the ownership of property was an inevitable result of the free-booting invasions of Dalriada of Alba by Irish Dalriadic princes and soldiers of fortune intent on personal gains.³ They owned the

¹ MacNeill, *Celtic Ireland*, p. 171.

² *Félire of Oengus*, p. c.

³ Dr. Eoin MacNeill (*Phases of Irish History*, p. 145; also see *Félire*, p. xxxii) derives the name *Scotus*, or Scot, from the verb *scothaim*, or *scathaim*, meaning a rapid cutting

property which they acquired for political, though not necessarily humane purposes, rather than for economic ends, and out of this was evolved the chieftain and clan. In Alba they adopted a polity distinct from that which they left behind them, by having power centralised in their king, and thereby avoided the creation of the Irish system of petty states and under-kings. But they maintained their independence. So the king of Dalriada in Alba was also king of Irish Dalriada. While Irish Dalriada was subject to the suzerain claims of the high-king of Ireland, that monarch held no such authority over the kingdom in Alba. A conflict of "claims" and "rights" might, and actually did, arise. For when the princes of Ireland were crossing to Alba to escape levies and payments, the Irish Dalriada was becoming seriously impoverished in men and resources, and as war was threatening in Ireland the high-king resolved that this question of levies and revenues from two independent or striking movement. "*Scottus*, then, in this view, was a common noun meaning a raider or reaver, a depredator who worked by rapid incursions and retirements." The character of the Scots in their earlier and later history is in keeping with this etymology.

kingdoms under one king, should be adjusted. This was the occasion of the famous Convention of Druim Ceata in 572, and not the independence of Dalriada in Alba as is sometimes said.¹ This latter question did not arise. The decision of this convention had reference wholly to the Irish Dalriada, whose land forces were henceforth to serve in Ireland and its fleet in Alba.²

The kingdom of Dalriada could now develop itself without fear of war from the West. And with its centralised power all laws could be issued from one source, so that the *Cáin* could be promulgated with greater ease in Alba than in Ireland, with its 150 courts and assemblies, each presided over by an under-king.

Although the Scots did not transplant the whole political polity of the Irish State, that was no disadvantage to Scotland. St. Columba did, however, transplant the whole of the ecclesiastical polity, traditions, and evangelising and cultural apparatus, much to the benefit of the young kingdom. A unity in practice and brotherhood was created and

¹ Cf. MacEwen, *History*, vol. i. p. 61.

² MacNeill, *Phases of Irish History*, pp. 197, 198 ; Green, *History*, p. 149.

maintained.¹ The ground on which he sowed in Dalriada or south of it was by no means fallow. For it would be as unfair to judge the moral and Christian character of the people of our own times by the lists of our criminals as to assume that the pirates of Coroticus, against whom St. Patrick writes with righteous anger,² fairly reflected a general apostasy in Pictland north of the wall between the Clyde and the Forth, but south of the Grampians. Even St. Patrick himself assumes the survival of a Christian conscience, to which he warmly appeals, among the people whom Coroticus ruled and the Picts who supported him in his marauding expeditions.³ St. Columba, a statesman and ecclesiastic of lofty genius, utilised what he got for the great end of establishing a Christian kingdom. At the laying of the foundation of our kingdom,

¹ An illustration of this is given in the meaning of a Gaelic phrase for a "man of two parts," who, according to Oengus the Culdee, is a man who spends "half his life in the world and the other half in pilgrimage." "Half his life in Ireland, and the other half in Scotland" (*Féilire of Oengus*, p. clxxx). Many other examples could be given.

² Bury, *St. Patrick*, p. 315.

³ *Ibid.* pp. 192, 316, 317.

a kingdom which, under God, has accomplished much, we are shown clearly by the *Cáin Domnaig* how the people ordered their lives on the Lord's day. This is a valuable addition to our knowledge. How far the Scottish clergy under the Roman mission fell from these high and strict ideals can best be understood from Queen Margaret's complaint, that "they neglect the reverence due to the Lord's day by devoting themselves to every kind of worldly business on it just as they did upon other days." To explain this lapse, as is still being done,¹ by asserting

¹ E.g. MacEwen, *History*, vol. i. p. 158; Lucy Menzies, *St. Margaret, Queen of Scotland*, pp. 101, 102. In addition to what has been noted on this point, there is this further mention by the Saint of Saturday as "Sabbath" without any Sabbatic observance: "O ro-bennach tra in indsi, tanic iarum da recles 7 ni cian iarsin tancatar cricha na saboti 7 tossach in domnaig"—"now when he had blessed the island, he came thereafter to his oratory, and not long after that there came the end of the sabbath and the beginning of the Domnach" (*Life of Colum Cille*, LB. 33, c. 28). In the Homily on the Commandments in LB. (Atkinson, *Passions and Homilies*, p. 246), the terms "sabot" and "Domnach" are both used. It says, "na dena obair domnaig," and then, "ocus i n-a fhigair-so dorinde Dia in t-oibriugud se-lathi anns na lathib ele, 7 boi hi tost isin tshaboit"—"and in a type of this God made the six days' work in the other days, and rested on the Sabbath." This means that the cessation from work on the Sabbath enjoined under the Old Dispensation was

without evidence that in the Celtic Church the Lord's day was not a rest day, is to go directly against the clear proof to the contrary before us in the *Cáin Domnaig*.

It is questionable whether the conduct of the Scottish clergy which seemed to horrify Queen Margaret was worse than that of the average of their class in England and throughout Europe.¹ It is equally doubtful whether the Lord's day was less strictly observed than in England in her day. For in 839 we find

transferred to the "Domnach" under the New Dispensation. Even Bede seems to name Saturday "Sabbath," e.g. "that same first day after the Sabbath, which is now called the Lord's day" (*History*, p. 115). Roger de Hoveden, in 1201, does the same thing: "Haec servanda constituit ab hora nona Sabbati usque ad ortum solis in die Lunae" (*Chronica*, vol. iv. p. 169). The fact is, the Lord's day was so jealously guarded in theory that in the Middle Ages markets were prohibited not only on Saturdays but on Mondays. An attempt in the same direction was made by the Presbytery of Aberdeen in 1704 by this overture: "That they (Assembly) address the enshueing Parliament, for ane act discharging all public mercats or affairs to be keeped on Mundayes or Saturdayes whereby great infamation of the Lord's day is occasioned" (*MS. Papers*, General Assembly Library of the Church of Scotland, Edinburgh). It would surely be absurd to conclude from these instances that Saturday was observed as "Sabbath" in the Mosaic or Christian sense.

¹ G. G. Coulton, *A Medieval Village*, *passim*.

an embassy of Ethelwulf to the Emperor Lewis, asking a passage through France to Rome, and informing him of a mysterious vision. The vision was that of a certain Religious in the land of the Angles, according to which terrible calamities were to befall the Christian people of the land unless they observed the Lord's day better and with greater reverence.¹ The alleged improvement in its observance,² as a result of her zeal, is not supported by documentary evidence. On the contrary, in 1201, Roger de Hoveden emphasises the destructive jealousy and bitter resentment of the Churchmen of England of the Abbot de Flay for strictness in Lord's day observance. And the people are not better, even the converts of the Abbot, "fearing more to lose earthly and transitory than heavenly and eternal things, returned (shameful to relate) like a dog to his vomit, and to the holding of markets on the Lord's day."³ The Friar

¹ "et si diem Dominicum melius et honorabilius non observaverint, cito super eos maximum et intolerabile periculum veniet" (Stubbs, *Councils*, vol. iii. p. 621).

² Bellesheim, *History*, vol. i. p. 249.

³ Quoted in Coulton's *Medieval Village*, p. 531.

who wrote *Dives and Pauper* gives a hideous picture of its desecration in the fourteenth century: "But now with Sunday reigneth more lechery, gluttony, robbery, backbiting, manslaughter, perjury, and other sins, more than reigned all the week before; and, when men come to church, they leave bedes-bidding (praying), and spend their time in sinful jangling."¹

A contemporary Archbishop of Canterbury, in a Constitution of 1362, complains bitterly of similar desecration. Instead of reverence there is blasphemy. Trading and unlawful pursuits are rife. A summary of devotion is made into a heap of dissipation. For the tavern is worshipped rather than the church, and gluttony and drunkenness are more abundant than tears and prayers, and wantonness and contumely than contemplation.² It was the same almost everywhere throughout Europe, and Scotland was no exception, on to the dawn of the Reformation.³

It is clear, however, that the Scottish clergy

¹ *Medieval Village*, p. 273.

² *Ibid.* p. 256.

³ *Ibid.*, *passim*.

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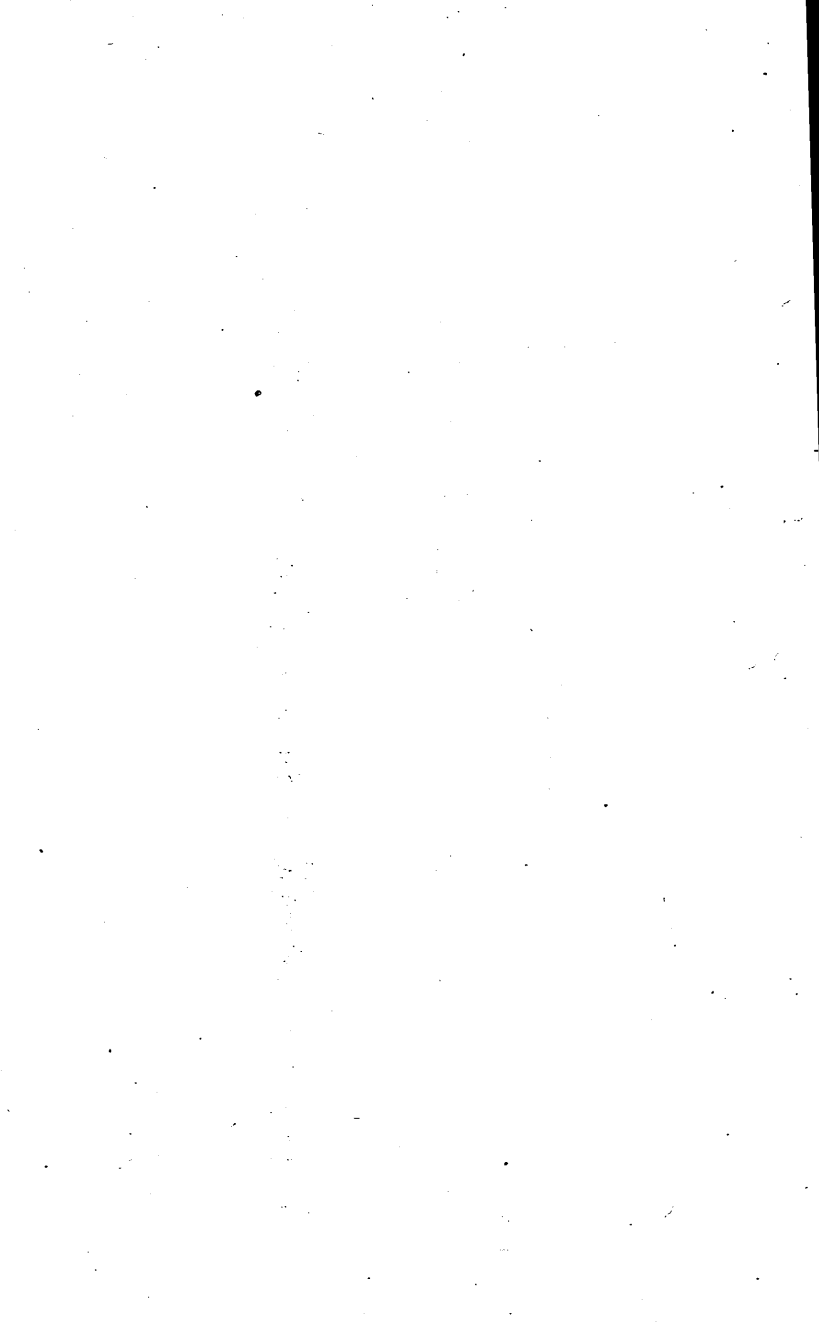
² *Ibid.* p. 256.

³ *Ibid.*, *passim*.

and laity in the Middle Ages lapsed grievously from the high ideals of the *Cáin Domnaig*, even although the Church was theoretically strictly Sabbatarian.¹

¹ *Medieval Village*, p. 254.

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